

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 ALEXANDER UCEDA,

4 Petitioner

5 v.

6 STATE OF NEVADA, *et al.*,

7 Respondents.  
8

Case No.: 2:22-cv-00687-APG-EJY

**Order Granting Motion to Voluntarily  
Dismiss Petition without Prejudice**

[ECF No. 33]

9 In his *pro se* 28 U.S.C. § 2254 habeas corpus petition Alexander Uceda challenges his  
10 conviction of several charges including robbery with use of a deadly weapon and discharging a  
11 firearm at or into a structure. ECF No. 1. He argues his trial counsel was ineffective in many  
12 ways, such as for failing to obtain written statements from victims and failing to move for a new  
13 trial. In September 2023, I granted the respondents' motion to dismiss the petition in part,  
14 dismissing one ground as noncognizable and concluding that another ground was partially  
15 unexhausted. ECF No. 31. I directed Uceda to choose one of the following options:

16 1. Submit a sworn declaration voluntarily abandoning the  
17 unexhausted claim in his federal habeas petition, and proceed only on the  
exhausted claims;

18 2. Return to state court to exhaust his unexhausted claim, in which  
19 case his federal habeas petition will be denied without prejudice; or

20 3. File a motion asking this court to stay and abey his exhausted  
21 federal habeas claims while he returns to state court to exhaust his unexhausted  
claim.

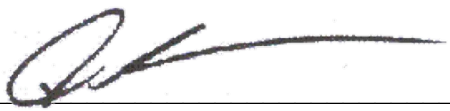
22 I specifically advised Uceda to familiarize himself with the limitations periods for filing  
23 federal habeas petitions contained in 28 U.S.C. § 2244(d), because those limitations periods may  
have a direct and substantial effect on whatever choice he makes regarding his petition.

1 On October 31, 2023, Uceda filed a motion to voluntarily dismiss the petition without  
2 prejudice so that he may return to state court to exhaust his unexhausted claim. ECF No. 33. He  
3 included a sworn declaration in support of the motion. I grant his motion and dismiss the petition  
4 without prejudice.

5 I THEREFORE ORDER that the petitioner's motion to voluntarily dismiss petition [ECF  
6 No. 33] is granted. The petition is dismissed without prejudice.

7 I FURTHER ORDER that the Clerk of Court enter judgment accordingly and close this  
8 case.

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10 Dated: November 2, 2023

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12 U.S. District Judge Andrew P. Gordon  
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